JOURNAL OF THE SENATE

Tuesday, August 8, 1967

The Senate was called to order by the President Pro Tempore at 9:30 a. m. The following Senators were recorded present:

Mr. President	de la Parte	Hollahan	Sayler
Askew	Edwards	Horne	Shevin
Bafalis	Elrod	Johnson	Slade
Barron	Fincher	Knopke	Spencer
Barrow	Fisher	Lane	Stockton
Bell	Friday	McClain	Stolzenburg
Boyd	Gibson	Mathews	Stone
Broxson	Gong	O'Grady	Thomas
Chiles	Griffin	Ott	Weber
Clayton	Gunter	Plante	Weissenborn
Cross	Haverfield	Poston	Wilson
Deeb	Henderson	Reuter	Young

48. A quorum present.

Excused: Senators Young, Sayler and Deeb after 2:30 p. m.

Prayer by the Secretary of the Senate:

Heavenly Father, judge we not our neighbor's behavior. Forgive those who engage unintentionally in an act of hypocrisy for they know not what they do. Rather than criticize or ridicule, may we, through the Holy Spirit, guide those to the blessings that come to us who follow the teachings of Jesus Christ. Jointly and audibly, we lift up the Master's prayer as our pilot of instruction in all of our endeavors:

Our Father, who art in Heaven, hallowed be thy name. Thy kingdom come; Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. Forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil. For thine is the Kingdom, and the power, and the glory, forever. Amen.

The Journal of August 7 was corrected and approved as follows:

Page 40, counting from the bottom of column 2, line 12. strike "23" and insert 24

Page 40, counting from the bottom of column 2, line 13, strike "24" and insert 23

Page 42, column 1, line 30, strike "failed" and insert was adopted

INTRODUCTION

By Senators Stockton, Gibson and Edwards—

SJR 5-XXX(67)—A bill to be entitled A joint resolution proposing an amendment to section 7 of Article X of the State Constitution to provide ten thousand dollars ($10,000.00) exemption from taxation of the homestead of any person aged sixty-five (65) or older.

Was read the first time in full and referred to the Committee on Rules and Calendar.

On motion by Senator Mathews, pursuant to Rule 5.12, the Senate resolved itself into a Committee of the Whole for the purpose of further consideration of SJR 2-XXX(67).

COMMITTEE OF THE WHOLE

The Committee of the Whole took up for consideration SJR 2-XXX(67).

Senator Stockton offered the following amendment which failed:

Amendment 68—Declaration of Rights, Section 6, on page 2, beginning at line 11, strike section 6 and insert in lieu thereof:

Section 6. RIGHT TO WORK.—The right of persons to work shall not be denied or abridged on account of membership or non-membership in any labor union or association. The right of employees, public or private, by and through a labor union or association, to bargain collectively shall not be denied or abridged. Public employees shall not have the right to strike **or exercise sanctions.**

Senator Stolzenburg offered the following amendment which failed:

Amendment 41—Declaration of Rights, Section 17, on page 5, beginning at line 3, strike entire section 17 and insert the following in lieu thereof:

Section 17. EXCESSIVE PUNISHMENTS.—Excessive fines, [cruel or unusual punishment], **and punishments,** [attainder], **attainders,** [corruption of blood], **corruption of bloods,** forfeiture of [estate] **estates and** indefinite [imprisonment] **imprisonments,** [and unreasonable detention of witnesses are forbidden,] **are forbidden. Unreasonable detention of witnesses is forbidden.**

Senator Stolzenburg also offered the following amendment which failed:

Amendment 43—Declaration of Rights, Section 18, on page 5, beginning at line 8, strike section 18 and substitute the following in lieu thereof:

Section 18. ADMINISTRATIVE PENALTIES.—No administrative agency shall impose a sentence of imprisonment, [nor shall it] **or** impose any penalty except as provided by law.

Senator Pope presiding.

Senator Stolzenburg also offered the following amendment which failed:

Amendment 65—Declaration of Rights, Section 20, on page 5, beginning at line 15, strike section 20 and substitute in lieu thereof the following:

Section 20. TREASON.—Treason against the state shall consist only in levying war against it, [adhering to its enemies, or giving them aid and comfort, and no] **or wilfully participating in an attempt to forcibly overthrow the legally constituted government. No** person shall be convicted of treason except upon the testimony of two witnesses to the same overt act or on confession in open court.

Senator Stolzenburg also offered the following amendment which was adopted:

Amendment 66—Declaration of Rights, Section 21, on page 5, beginning at line 21, strike section 21 and substitute in lieu thereof the following:

Section 21. ACCESS TO COURTS.—The courts shall be opened to every person for redress of any injury, and justice shall be **impartially** administered without sale, denial or delay.

Senator Stolzenburg also offered the following amendment which failed:

Amendment 45—Declaration of Rights, Section 19, on page 5, beginning at line 12, strike Section 19 and insert the following in lieu thereof:

Section 19. COSTS.—No person charged with a crime shall be compelled to pay costs before a judgment of conviction has become final.

Senator Barron presiding.

Senators Sayler and Deeb offered the following amendment which was moved by Senator Sayler and failed:

Amendment 76—Article II, Section 3, Subsection b, on page 9, beginning at line 1, strike subsection b and insert the following in lieu thereof:

(b) Each state [and county], **county and municipal** officer, before entering upon the duties of the office, shall give bond as required by law, and shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter. So help me God.",

and thereafter shall devote personal attention to the duties of the office, and continue in office until his successor qualifies.

Senator Weissenborn presiding.

Senator Fisher offered the following amendment:

Amendment 9—Article II, Section 4, on page 9, beginning at line 18, strike all of Section 4 and insert in lieu thereof:

Section 4. ENEMY ATTACK **OR INSURRECTION.**—In periods of emergency resulting from enemy attack **or insurrection** the legislature shall have power to provide for prompt and temporary succession to the powers and duties of all public offices the incumbents of which may become unavailable to execute the functions of their offices, and to adopt such other measures as may be necessary and appropriate to insure the continuity of governmental operations during the emergency. In exercising these powers, the legislature may depart from other requirements of this Constitution, but only to the extent necessary to meet the emergency.

Senator Wilson offered the following amendment to the amendment which failed:

Article II, Section 4, on page 9, strike: "from enemy attack or insurrection"

Amendment 9 failed. The vote was:

Yeas—20

Bafalis	Elrod	Horne	Stockton
Barron	Fincher	Knopke	Thomas
Barrow	Fisher	Plante	Weber
Bell	Gibson	Sayler	Wilson
Deeb	Henderson	Slade	Young

Nays—21

Mr. President	Friday	Mathews	Stolzenburg
Askew	Gong	O'Grady	Stone
Broxson	Griffin	Ott	Weissenborn
Clayton	Gunter	Poston	
Cross	Lane	Shevin	
de la Parte	McClain	Spencer	

Senator Pope presiding.

Senator Askew presiding.

On motion by Senator Mathews, Article II of SJR 2-XXX(67) was adopted. The vote was:

Yeas—47

Mr. President	Edwards	Horne	Shevin
Askew	Elrod	Johnson	Slade
Bafalis	Fincher	Knopke	Spencer
Barron	Fisher	Lane	Stockton
Barrow	Friday	McClain	Stolzenburg
Bell	Gibson	Mathews	Stone
Broxson	Gong	O'Grady	Thomas
Chiles	Griffin	Ott	Weber
Clayton	Gunter	Plante	Weissenborn
Cross	Haverfield	Poston	Wilson
Deeb	Henderson	Reuter	Young
de la Parte	Hollahan	Sayler	

Nays—1

Boyd

Senator Pope presiding.

The Committee of the Whole took up for consideration Article III of SJR 2-XXX(67).

Senators Gunter, Lane, Fisher, de la Parte and Shevin offered the following amendment which was moved by Senator Gunter:

Amendment 28—On page 10, beginning at line 3, as follows: strike the entire article and insert the following:

Section 1. COMPOSITION.—The legislative power of the state shall be vested in a legislature of the State of Florida, consisting of a senate composed of [one senator elected from each senatorial district and a house of representatives composed of one member elected from each representative district.] **not more than 100 senators.**

Section 2. MEMBERS — OFFICERS. — [Each house] **The Senate** shall be the sole judge of the qualifications, elections, and returns of its members, and shall [biennially] **set its rules of procedure,** choose its officers, including a permanent presiding officer selected from its membership, who shall be designated [in the senate] as President. [of the Senate, and in the house as Speaker of the House of Representatives.] The Senate shall designate a Secretary to serve at its pleasure. [and the house of representatives shall designate a Clerk to serve at its pleasure.]

Section 3. SESSIONS OF LEGISLATURE.—

(a) ORGANIZATION SESSIONS. On the fourteenth day following each biennial general election the legislature shall convene for the exclusive purpose of organization and selection of officers.

(b) REGULAR SESSIONS. A regular session of the legislature shall convene on the first Tuesday after the first Monday in April of each odd-numbered year.

(c) SPECIAL SESSIONS.

(1) The governor, by proclamation stating the purpose, may convene the legislature in special session during which only such legislative business may be transacted as is within the purview of the proclamation, or of a communication from the governor, or is introduced by consent of two-thirds of the membership of [each house.] **the Senate.**

(2) Three-fifths of the membership [of each house] of the legislature, by demand made as provided by law, **may** convene the legislature in special session.

(d) LENGTH OF SESSIONS. A regular session of the legislature shall not exceed sixty consecutive days and a special session shall not exceed thirty days, unless extended beyond such limit by a three-fifths vote of [each house] **the Senate.** During such an extension no new business may be taken up [in either house] without the consent of two-thirds of [its membership] the members.

[(e) **Adjournment.** Neither house shall adjourn for more than three days except pursuant to concurrent resolution.

(f) **Adjournment by governor.** If, during any regular or special session, the two houses cannot agree upon a time for adjournment, the governor may adjourn the session sine die or to any date within the period authorized for such session; provided that, at least two legislative days before adjourning the session, he shall, while neither house is in recess, give each house formal written notice of his intention to do so, and agreement reached within the period by both houses on a time for adjournment shall prevail.]

Section 4. QUORUM AND PROCEDURE.—

(a) A majority of the [membership of each house] **members** shall constitute a quorum, but a smaller number may adjourn from day to day and compel the presence of absent members in such manner and under such penalties as [it] **they** may prescribe. [Each house shall determine its rules of procedure.]

(b) **All** sessions [of each house] shall be public, except that the Senate may sit in executive session to consider appointment to or removal from public office.

(c) [Each house] **The Senate** shall keep and publish a journal of its proceedings, and the yeas and nays of the mem-

bers on any question shall, upon the request of five members present, be entered on the journal.

(d) [Each house] **The Senate** may punish a member for contempt or disorderly conduct and, by a two-thirds vote of its membership, may expel a member.

Section 5. INVESTIGATIONS—WITNESSES.—[Each house when] When in session **the Senate** may compel attendance of witnesses and production of public and private documents and other evidence upon any matter under investigation before it or any of its committees, and may punish [by fine not exceeding one thousand dollars or imprisonment not exceeding ninety days] any person not a member who has been guilty of disorderly or contemptuous conduct in its presence or has refused to obey its lawful summons or to answer lawful questions. Such powers, except the power to punish, may be conferred upon a designated committee of legislators for a stated period of operation with reference to specific matters. Punishment of contempt of an interim legislative committee shall be by judicial proceedings as prescribed by law.

Section 6. ACTS.—Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title. No law shall be revised or amended by reference to its title only. Laws to revise or amend shall set out in full the revised or amended act, section, sub-section or paragraph of a sub-section. The enacting clause of every law shall read: "Be it enacted by the Legislature of the State of Florida."

Section 7. PASSAGE OF BILLS.—[Any bill may originate in either house and after passage in one may be amended in the other.] **No bill may pass the Senate earlier than six days from its introduction unless such passage is by unanimous vote.** [It] **Every bill** shall be read [in each house] on three separate days, unless this rule is waived by two-thirds vote. On each reading, it shall be read by title only, unless one-third of the members present desire it read in full. On final passage, the vote [in each house] shall be taken by yeas and nays and entered on [its] **the** journal. Passage of a bill shall require a majority vote. [in each house. Each bill and joint resolution passed in both houses shall be signed by the presiding officers of the respective houses and by the secretary of the senate and the clerk of the house of representatives.]

Section 8. EXECUTIVE APPROVAL AND VETO.—

(a) Every bill passed by the legislature shall be presented to the governor for his approval and shall become a law if he approves and signs it, or fails to veto it within seven days after presentation. If during that period the legislature adjourns sine die or takes a recess of more than thirty days, he shall have twenty days from the date of adjournment or recess to act on the bill. In all cases except general appropriation bills, the veto shall extend to the entire bill. The governor may veto any specific appropriation in a general appropriation bill.

(b) When a bill or any specific appropriation of a general appropriation bill has been vetoed by the governor, he shall transmit his signed objections thereto to the [house in which the bill originated if in session] **Senate, if in session.** If [that house] **the Senate** is not in session, he shall file them with the secretary of state, who shall lay them before [that house] **the Senate** at its next regular or special session, and they shall be entered on [its] **the** journal.

(c) If [each house] **the Senate** shall re-enact the bill or reinstate a vetoed specific appropriation of an appropriation bill by two-thirds vote, the yeas and nays shall be entered on the [respective journals] **journal,** and the bill shall become law or the specific appropriation reinstated, the veto notwithstanding.

Section 9. EFFECTIVE DATE OF LAWS.—Each law shall take effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted, unless therein otherwise provided.

Section 10. SPECIAL AND LOCAL LAWS.—No special law or local law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by law in each county in the area to be affected, not less than thirty days nor more than ninety days prior to introduction in the legislature. The fact that publication has been made shall be recited on the journal [of each house] and the evidence of publication shall be preserved with the bill in the office of the secretary of state. Such notice shall not be necessary when the law, except the provision for referendum, is conditioned to become effective only upon approval by vote of the electors of the area affected.

Section 11. PROHIBITED SPECIAL AND LOCAL LAWS.—The legislature shall not pass any special or local law pertaining to:

(a) election, jurisdiction, duties or fees of officers, except officers of municipalities or chartered counties;

(b) assessment or collection of taxes for state or county purposes, including extension of time therefor, relief of tax officers from due performance of their duties, and relief of their sureties from liability;

(c) rules of evidence in any court;

(d) punishment for crime;

(e) petit juries, including compensation of jurors, except establishment of jury commissions;

(f) change of civil or criminal venue;

(g) conditions precedent to bringing any civil or criminal proceedings, or limitations of time therefor;

(h) refund of money legally paid or remission of fines, penalties or forfeitures;

(i) creation, enforcement, extension or impairment of liens based on private contracts, or fixing of interest rates on private contracts;

(j) disposal of public property, including any interest therein, for private purposes;

(k) vacation of roads;

(l) private incorporation or grant of privilege to a private corporation;

(m) effectuation of invalid deeds, wills or other instruments, or change in the law of descent;

(n) change of name of any person;

(o) divorce;

(p) legitimation or adoption of persons;

(q) relief of minors from legal disabilities;

(r) transfer of any property interest of persons under legal disabilities or of estates of decedents;

(s) fishing or hunting;

(t) regulation of occupations which are regulated by a state agency;

(u) removal of a county seat; or

(v) any subject when prohibited by general law.

Section 12. APPROPRIATION BILLS.—Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.

Section 13. REQUIRED GENERAL LAWS.—The legislature shall enact general laws providing for:

(a) the protection and promotion of the public health and welfare, and natural resources of the state;

(b) suits against the state, its agencies and subdivisions;

(c) a state board of health and its powers and duties;

(d) such correctional and benevolent institutions as the public good may require;

(e) a parole commission, prescribing the qualifications, method of selection and terms of its members, which shall not exceed six years, and empowering it to supervise persons on probation and to grant parole or conditional releases to persons under sentences for crime;

(f) adequate liens for mechanics and laborers on the subject matter of their labors;

(g) a public service commission composed of three commissioners to be elected from the state at large and the powers and duties of the commission;

(h) an annual audit of all accounts of the state, counties, school districts and special districts;

(i) the speedy publication and distribution of all laws it may enact;

(j) an auditor to serve at the pleasure of the legislature; and

(k) carrying into effect all the provisions of this constitution.

Section 14. TERM OF OFFICE.—No office shall be created the term of which shall exceed four years except as provided in this constitution.

Section 15. CIVIL SERVICE SYSTEM.—By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such officers thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

Section 16. TERMS AND QUALIFICATIONS OF LEGISLATORS.—

(a) SENATORS. Senators shall be elected for appropriately staggered terms of four years.

[(b) Representatives. Members of the house of representatives shall be elected for terms of two years in each even numbered year.]

[(c)] **(b)** QUALIFICATIONS. Each legislator shall be at least twenty-one years of age and an elector and resident of the district from which elected.

[(d)] **(c)** ASSUMING OFFICE—VACANCIES. Members of the legislature shall take office upon election. Vacancies in legislative office shall be filled only by election as provided by law.

Section 17. LEGISLATIVE APPORTIONMENT.—

(a) SENATORIAL [AND REPRESENTATIVE] DISTRICTS. The legislature at its regular session in the second year following each decennial census [by joint resolution,] shall apportion the state in accordance with the constitution of the state and of the United States into not [less than forty nor more than fifty] **more than one hundred** consecutively numbered senatorial districts of either contiguous, over-lapping or identical territory. [and into not less than eighty nor more than one hundred twenty consecutively numbered representative districts of either contiguous, overlapping or identical territory.] Should that session adjourn without adopting such [joint] resolution, the governor by proclamation shall reconvene the legislature within thirty days in special apportionment session which shall not exceed thirty consecutive days, during which no other business shall be transacted, and it shall be the mandatory duty of the legislature to adopt a [joint] resolution of apportionment.

(b) FAILURE OF LEGISLATURE TO APPORTION—JUDICIAL APPORTIONMENT. In the event a special apportionment session of the legislature finally adjourns without adopting a [joint] resolution of apportionment, the attorney general shall, within five days, petition the supreme court of the state to make such apportionment. Not later than the sixtieth day after the filing of such petition, the supreme court shall file with the secretary of state an order making such apportionment.

(c) JUDICIAL REVIEW OF APPORTIONMENT. Within fifteen days after the passage of the [joint] resolution of apportionment, the attorney general shall petition the supreme court of the state for a declaratory judgment determining the validity of the apportionment. The supreme court, in accordance with its rules, shall permit adversary interests to present their views and, within thirty days from the filing of the petition, shall enter its judgment.

(d) EFFECT OF JUDGMENT IN APPORTIONMENT—EXTRAORDINARY APPORTIONMENT SESSION. A judgment of the supreme court of the state determining the apportionment to be valid shall be binding upon all the citizens of the state. Should the supreme court determine that the apportionment made by the legislature is invalid, the governor by proclamation shall reconvene the legislature within five days thereafter in extraordinary apportionment session which shall not exceed fifteen days, during which the legislature shall adopt a [joint] resolution of apportionment conforming to the judgment of the supreme court.

(e) EXTRAORDINARY APPORTIONMENT SESSION—REVIEW OF APPORTIONMENT. Within fifteen days after the adjournment of an extraordinary apportionment session, the attorney general shall file a petition in the supreme court of the state setting forth the apportionment resolution adopted by the legislature, or if none has been adopted reporting that fact to the court. Consideration of the validity of a [joint] resolution of apportionment shall be had as provided for in cases of such [joint] resolution adopted at a regular or special apportionment session.

(f) JUDICIAL REAPPORTIONMENT. Should an extraordinary apportionment session fail to adopt a resolution of apportionment or should the supreme court determine that the apportionment made is invalid, the court shall, not later than sixty days after receiving the petition of the attorney general, file with the secretary of state an order making such apportionment.

Section 18. IMPEACHMENT.—

(a) The governor, members of the cabinet, justices of the supreme court and judges of other courts shall be liable to impeachment for misdemeanor in office. The [house of representatives] **Senate** by two-thirds vote of the members present shall have the power to impeach an officer. The [speaker of the house of representatives] **President of the Senate** shall have power at any time to appoint a committee to investigate charges against any officer subject to impeachment.

(b) An officer impeached by the [house of representatives] **Senate** shall be disqualified from performing any official duties until acquitted by the Senate, and unless the governor is impeached he may by appointment fill the office until completion of the trial.

(c) All impeachments by the [house of representatives shall be tried by the senate.] **Senate shall be tried by the supreme court.** The chief justice of the supreme court, or an associate justice designated by him, shall preside at the trial, except in a trial of the chief justice, in which case the governor shall preside. [The senate shall determine the time for the trial of any impeachment and may sit for the trial whether the house of representatives be in session or not; provided that the time fixed for such trial shall not be more than six months after the impeachment.] **The recommendation of the court shall be certified to the Senate with the transcript of trial. The Senate may accept or reject the recommendation of the court but no officer shall be removed without a two-thirds vote of the members.** [During an impeachment trial senators shall be upon their oath or affirmation. No officer shall be convicted without the concurrence of two-thirds of the members of the senate present.] Judgment of conviction in cases of impeachment shall remove the offender from office and, in the discretion of the Senate, may include disqualifications to hold any office of honor, trust or profit. Conviction or acquittal shall not affect the civil or criminal responsibility of the officer.

Section 19. In the event that it should become possible under The Constitution of the United States, by judicial interpretation or amendment, to apportion one or both houses of a bicameral state legislature according to a basis other than that of population, the Legislature of the State of Florida shall have the power by three-fifths vote to establish a second chamber on such constitutional basis.

Section 20. The provisions of Article III shall take effect on November 1, 1972, provided that the provisions of Article III of the Constitution of 1885 as amended shall remain in effect until November 1, 1972.

Senator Mathews moved that the Committee of the Whole rise. Which was agreed to.

The Senate was called to order by Senator Askew at 11:59 a. m. The following Senators were recorded present:

Mr. President	de la Parte	Hollahan	Sayler
Askew	Edwards	Horne	Shevin
Bafalis	Elrod	Johnson	Slade
Barron	Fincher	Knopke	Spencer
Barrow	Fisher	Lane	Stockton
Bell	Friday	McClain	Stolzenburg
Boyd	Gibson	Mathews	Stone
Broxson	Gong	O'Grady	Thomas
Chiles	Griffin	Ott	Weber
Clayton	Gunter	Plante	Weissenborn
Cross	Haverfield	Poston	Wilson
Deeb	Henderson	Reuter	Young

48. A quorum present.

The President presiding.

On motion by Senator Mathews, it was agreed by two-thirds vote that when the Senate recesses it recess to reconvene at 1:00 p.m.

Senator Hollahan requested that he be relieved of the duty of membership on and chairmanship of the Select Committee appointed on August 2, 1967, to make inquiry into an Executive Order of Suspension in the case of Flanders Thompson, Sheriff of Lee County, Florida.

In pursuance whereof, the President announced the appointment of Senator Clayton as a member of the Select Committee, and designated Senator McClain to serve as Chairman.

The following communication was received and ordered spread upon the Journal:

Senator Verle A. Pope, President August 8, 1967
Florida Senate
State Capitol Building
Tallahassee, Florida

Dear Senator Pope:

As you know I have previously requested the Senate committee on Ethics and Privileged Businesses to review the facts and circumstances surrounding the recent newspaper articles and request of the Governor that I disqualify myself for service on the Select Committee to investigate and recommend to the full Senate action on the suspension and removal by the Governor of Sheriff Flanders Thompson of Lee County, Florida.

The committee on Ethics having met, appointed a sub-committee on the question and I, having appeared before the full committee and its sub-committee, it appears that the ultimate decision is up to me as an individual Senator.

I do not believe that any conflict of interest has existed or could possibly exist now in any determination of the guilt or innocence of the Sheriff of Lee County in the charges involved. However, it readily appears to me that there could exist unfounded speculation on this question of conflict, no matter how minute or unjustified it might be. The fact that the press first and then the Governor have taken this position, it could be harmful to the accused and greatly prejudice his right to a fair and impartial hearing. Therefore in the best interest of the accused I herewith request that I be allowed to withdraw from service on the select committee and that a replacement for me be named to serve instead.

Respectfully submitted,
GEORGE L. HOLLAHAN, JR.

The hour of adjournment having arrived, a point of order was called and the Senate recessed at 12:01 p. m.

AFTERNOON SESSION

The Senate was called to order by Senator Askew at 1:00 p.m.

The following Senators were recorded present:

Mr. President	Chiles	Fisher	Hollahan
Askew	Clayton	Friday	Horne
Bafalis	Cross	Gibson	Johnson
Barron	Deeb	Gong	Knopke
Barrow	de la Parte	Griffin	Lane
Bell	Edwards	Gunter	McClain
Boyd	Elrod	Haverfield	Mathews
Broxson	Fincher	Henderson	O'Grady
Ott	Sayler	Stockton	Weber
Plante	Shevin	Stolzenburg	Weissenborn
Poston	Slade	Stone	Wilson
Reuter	Spencer	Thomas	Young

48. A quorum present.

On motion by Senator Mathews, pursuant to Rule 5.12, the Senate resolved itself into a Committee of the Whole.

COMMITTEE OF THE WHOLE

The Committee of the Whole resumed consideration of Amendment 28 to SJR 2-XXX(67).

Senator Mathews moved that the Committee of the Whole rise. Which was agreed to.

The Senate was called to order by the President at 1:58 p. m. A quorum present.

Pursuant to HCR 13-XXX(67), the hour of 2:00 p.m. having arrived, the Senate formed in processional order and marched in a body to the Chamber of the House of Representatives, with the President of the Senate leading, who was preceded by the Secretary of the Senate, the way being opened to the Chamber of the House of Representatives by the Sergeant At Arms of the Senate. The Senate was received in due form.

Honorable Ralph D. Turlington, Speaker of the House of Representatives, invited the President of the Senate to the rostrum, and requested the President to preside over the joint session.

The President in the Chair.

The Clerk called the roll of the House of Representatives.

The Secretary of the Senate called the roll of the Senate.

The President announced a quorum of the joint session present.

The President recognized Honorable Tom Adams, Secretary of State; Honorable Earl Faircloth, Attorney General; Honorable Fred O. Dickinson, Jr., Comptroller; and Honorable Broward Williams, Treasurer, constituting the Cabinet of Florida; Honorable LeRoy Collins, former Governor of Florida; Honorable Jay W. Brown, Chairman, State Road Department; and Honorable William T. Mayo, Chairman, Florida Public Service Commission.

Prayer by Representative Phil Ashler:

O, Lord, who art the way, the truth, and the life, we pray for wisdom to discern the signs of the times. Keep us ever from confusing our own selfish wants and ambitions with the will of the Lord. In this joint session, let us put aside the banners of our separate political philosophies while we lend an attentive ear to the message thy servant will bring to us—Let our hearts and our minds be dedicated to not necessarily the desires of the people, but to their best interests. Bless, O Lord, this native son of our great state who has been charged with the responsibility of coordinating and directing this vital area of government. Give him the strength and courage to deal effectively with our problems, and may thy hand give him guidance. Give him the vision to make plans to move the people of our nation by means not yet conceived or even imagined by man. But keep us ever mindful that wherever we travel—from home to work or to outer space—it is thy hand that guides the tiller and shapes our separate destinies. This we ask, O Lord, in thy holy name. Amen.

The President appointed Senators Boyd and Sayler on the part of the Senate and Representatives Reed, Osborne and Schultz on the part of the House of Representatives as a committee to escort His Excellency, Claude R. Kirk, Jr., Governor of Florida, to the Chamber and to the rostrum. The Committee withdrew.

The President appointed Senators Spencer and Poston on the part of the Senate and Representatives Holloway, Reedy and J. Martinez on the part of the House of Representatives as a committee to escort the Honorable Alan S. Boyd, U. S. Secretary of Transportation, to the Chamber and to the rostrum. The Committee withdrew.

The Committee appointed to wait upon the Governor reappeared in the hall of the House of Representatives escorting

His Excellency, Claude R. Kirk, Jr. The Governor was received by the joint assembly standing and was escorted to the rostrum.

The Committee appointed to wait upon the Secretary of Transportation reappeared in the hall of the House of Representatives escorting the Honorable Alan S. Boyd who was received by the joint assembly standing and was escorted to the rostrum.

The President recognized Representative Vernon C. Holloway, Chairman of the Select Study Committee on Mass Transportation, who addressed the joint session briefly.

The President introduced Mrs. Alan S. Boyd, wife of the Secretary of Transportation, to the joint assembly.

The President presented Governor Kirk to the assembly.

Governor Kirk introduced Secretary Boyd who addressed the joint session.

Following the Secretary's address, the Committee previously appointed escorted him from the rostrum and from the chamber.

The Committee previously appointed escorted the Governor from the rostrum and from the chamber.

On motion by Senator Mathews, the Senate withdrew from the Joint Assembly and resumed its session at 2:54 p.m. The President presiding.

The following Senators were recorded present:

Mr. President	Edwards	Horne	Slade
Askew	Elrod	Johnson	Spencer
Bafalis	Fincher	Knopke	Stockton
Barron	Fisher	Lane	Stolzenburg
Barrow	Friday	McClain	Stone
Bell	Gibson	Mathews	Thomas
Boyd	Gong	O'Grady	Weber
Broxson	Griffin	Ott	Weissenborn
Chiles	Gunter	Plante	Wilson
Clayton	Haverfield	Poston	
Cross	Henderson	Reuter	
de la Parte	Hollahan	Shevin	

45. A quorum present.

On motion by Senator Mathews, pursuant to Rule 5.12 the Senate resolved itself into a Committee of the Whole.

COMMITTEE OF THE WHOLE

The Senate resumed consideration of Amendment 28 to Article III of SJR 2-XXX(67).

On motion by Senator Mathews, the rules were waived and time of adjournment was extended until final action on Amendment 28.

The question recurred on the adoption of Amendment 28 which failed. The vote was:

Yeas—11

Cross	Gong	Shevin	Weissenborn
de la Parte	Hollahan	Spencer	Wilson
Fisher	Lane	Stolzenburg	

Nays—25

Mr. President	Chiles	Horne	Reuter
Askew	Edwards	Johnson	Stockton
Barron	Elrod	Knopke	Stone
Barrow	Fincher	Mathews	Weber
Bell	Friday	O'Grady	
Boyd	Gibson	Ott	
Broxson	Griffin	Plante	

PAIRS

The following Pairs were announced by the Secretary in accordance with Senate Rule 8.4:

I am paired with Senator Bafalis on Amendment 28 to SJR 2-XXX(67). If he were present he would vote "Nay" and I would vote "Yea."

JERRY THOMAS
Senator, 35th District

I am paired with Senator Haverfield on Amendment 28 to SJR 2-XXX(67). If he were present he would vote "Yea" and I would vote "Nay."

WARREN S. HENDERSON
Senator, 32nd District

I am paired with Senator Poston on Amendment 28 to SJR 2-XXX(67). If he were present he would vote "Nay" and I would vote "Yea."

BILL GUNTER
Senator, 18th District

Senator Mathews moved that the Committee of the Whole rise. Which was agreed to.

The Senate was called to order by the President Pro Tempore at 4:05 p.m. A quorum present.

Pursuant to a motion by Senator Mathews on July 31, the following transcripts of remarks by distinguished speakers before the joint assembly on that date were spread upon the Journal.

Remarks by the Honorable Millard F. Caldwell, Justice of the Supreme Court and a former Governor of Florida:

As a prelude to every parliamentary conference it seems there must be an address which, like the Mother Hubbard, carefully avoids all points of interest.

Such is my function here this afternoon. It's not my province to tell you what I think should or should not be done by way of constitutional revision. I will neither castigate nor praise the old, nor plead for a new Constitution. That responsibility I must leave in your capable hands with every confidence you will put aside petty ambitions and sectionally oriented aims and consider well what will best serve the State.

It is not necessary for me to tell you the Constitution is no place for experiment—that it is not to be made the vehicle for temporary solutions of momentary problems. It should be a balanced document designed to restrain the ambitious and serve as a guide for public affairs in good times and bad, for decades to come.

Economic stability, public confidence and sound government require, as a conditioned precedent, a charter anchored to permanent truths, not subject to passing whims and fancies.

Let's bear in mind that constitutions are no longer uniquely American in concept. Nations generally, including such ornaments of society as the cannibal tribes of Africa, Cuba, Egypt and Russia are all endowed with constitutions promising lasting freedom to their citizens.

The mere fact of a constitution is meaningless absent two major factors; a degree of permanence and observance of its mandates—observance by the Legislative, the Executive and, especially, the Judicial branches of government.

Let me illustrate that point by reminding you the Constitution of Russia is very similar to our own. It provides for equal rights for citizens of all races, for women, for separation of church and state, for freedom of speech, freedom of the press, freedom of assembly and the inviolability of the person. But, just because the leadership of Russia ignores the Constitution, the people enjoy none of those freedoms. In truth, the difference between the slave state of Russia and the Republic of the United States is that, in Russia, the people are governed by men while, in America, we were, until recently, governed by law.

Just how we will fare under the Federal Constitution as amended by the Supreme Court remains to be seen. But it is well that we remember Judicial amendment can be more destructive than legislative enactment because the latter may, at the behest of the voters, be revised by a new Legislature, while the former, as pragmatical fact, is subject only to the caprice of a majority of the court.

Because the founding fathers feared the waywardness of men vested with great power, they required the members of the Supreme Court to take an oath to support the Constitution. Even so there were doubts, expressed by great men of the day, that the Court would stay within bounds. Consequently, the Constitution was made to include a provision which authorized the Congress to prescribe limits beyond which the Supreme Court might not go. Unhappily, history tells the oath has failed to restrain the Court and the Congress lacks the courage to act.

National disasters are frequently foretold by military juntas and the new constitutions tailored to fit new ambitions. Impermanency in your foundation charter is a pitfall to be avoided. Of equal danger is the likelihood, in times of crisis, that your leadership or your courts will ignore the restraint imposed by the Constitution.

The chief purpose of the Constitution is to restrain—not the average citizen but to restrain the ambitious Caesars. And therein lies constitutional government's greatest weakness because, strangely, although the Constitution is designed to safeguard the citizens against the overreaching of the leadership, it is in that very leadership the Constitution must lodge the duty of enforcement.

It was at one time believed the taking of an oath to support a Constitution was security against its breach but experience has taught that in times of great stress, fancied or real, political or otherwise, the lawmakers, the executives and the judges are inclined to act with independence.

In addition to the oath, it was thought the use by the people of the ballot box would pose a threat sufficient to insure obedience to the Constitution by the officials but, as we have seen, people are careless of their rights and, generally, are willing to exchange a few such rights for immediate and personal benefit.

The truth is we know very little about constitutional government. It's a theory developed in modern times and, of the hundred-odd nations which have tried it, only the United States presents a pattern of prolonged and reasonable success. Our dependable knowledge of that form of government is what we have learned from our own trial and error.

In the adoption of the Federal Constitution the warnings were clear the predictions were certain. Patrick Henry, distrusting a central government, believing the future of the Republic required sovereignty of the states, told the people to be extremely cautious—that "instead of securing your rights, you may lose them forever." He said, "there will be no checks, no real balances in this government" which will "destroy the state governments and swallow the liberties of the people."

George Mason warned that, under the Constitution as written, the concurrent powers of the Federal and State governments could not exist long together.

William Grayson was apprehensive the members of the Supreme Court, appointed for life, elected by no one, responsible to no one, could not escape the temptations of untrammeled power—he said that Court would destroy State government.

And of course, notwithstanding the reservation in the states of all powers not specifically delegated to the Federal government, the predictions have come to pass. The states have now lost the prerogative of self-determination in major fields reserved to them. They no longer have the power to preserve the peace within their own borders; they no longer have the power to say who can and who cannot practice law in the State courts; they no longer have the power to control education within their boundaries, nor to control State elections.

All of this is not by way of happenstance. There is in the land a determination to destroy the system of checks and balances thought by the founding fathers necessary for the preservation of the Republic. The forces bent on obliterating these fundamental safeguards have made startling inroads. The Supreme Court has undertaken methodically to rapidly reduce the states to empty shells. It has not only encroached upon the fundamental powers reserved to the states, it has encroached upon the prerogative of the Congress and has written its own laws. Both the Court and the Executive have violated the mandate to maintain the separation between the several branches of government.

What I've said is important in that it points to the need for clarity and certainty in whatever document you evolve. You must be as certain as is humanly possible in the laying down of your guidelines. Whatever changes you make must not result in a malleable Constitution subject to distortion.

Inevitably, constitutional language, when applied to given circumstance, is often not clear of intent. With all of the care you may exert, much litigation must, of necessity, result. Florida's present Constitution, nearly a century old, is still, in numerous cases each year, being construed by decisions of the court.

Whether this Nation of ours is to be governed by the rule of law, under the Constitution, or the rule of man, unfettered by restraint, constitutes the most vital national problem of our time. Whether this State is to be governed by the rule of law under a clarion-clear Constitution is the most vital state problem of the day.

May I conclude by saying I hope your deliberations will reflect credit upon you; that what you may write will be clear and express simply its intent; that you will not change merely for the sake of change; that you will appraise the future and, in the light of the past, do that which will profit this, a great State of the Union.

Remarks by Honorable Chesterfield Smith, Chairman of the Constitution Revision Commission:

Mr. President, Mr. Speaker, Governor Caldwell, distinguished members of the Florida Legislature, I little knew seven months ago when I addressed the legislature reporting on the work of the Florida Constitution Revision Commission that I would be here today with a repeat performance. My deep devotion to the work of our Commission encourages me in this joint endeavor, and I am most optimistic that at last the people of Florida will now enjoy a modern Constitution.

During its existence as a state, Florida has had five constitutions, three of which were primarily the product of the Civil War and Reconstruction. The present constitution framed in 1885 and effective since 1887, has been the object of growing criticism, particularly during the past two decades. Framed to provide the basis of state government for a rural society, before the discovery of electric lights, automobiles, television, or jet aircraft, the existing document has become increasingly inadequate to meet the pressing needs of the most rapidly growing state of the nation, which is now, predominantly urban in nature.

There are major weaknesses in our constitution. For example, it is replete with documentary decisions such as inconsistencies, contradictions and obsolete provisions. We find throughout it incorporation by reference of legal enactment not otherwise in the constitution. We find a scattering of related provisions throughout the document. We find much material that any student of government properly would recognize as being of a statutory matter and not one properly a constitutional matter.

Of a far greater significance, there are major substance weaknesses in our constitution which reflect the political situation of 1885 and the vagaries of Florida politics during the intervening years.

Among other matters which have received substantial criticism is the dispersion of executive power and responsibility, the proliferation of boards and commissions, the inflexible scope of permissible policy, the limitations on governmental powers and duties, and the excessive detail of an essential statutory nature.

In 1885 the long-time residents of this state had just regained control of the state government from those people who had exercised control over it in the twenty years following the end of the Civil War. I believe that it is a fair statement to say that those people who had controlled our state government were not the best people then in our State, nor were they the best people in the States from which they had recently come. We called them carpet-baggers, and that they were. As government officials they quite commonly had engaged in fraud, corruption, and other chicanery. The people distrusted the Legislature just as they distrusted the executive and the courts. It is natural that when they regained control of their government, they wanted to create a weak legislative body without the authority that a legislative body traditionally had had. Under our system of state government, the Legislature may exercise all powers not expressly prohibited to it by its Constitution or which we have not ceded away to the Federal government. In our Constitution of 1885, the people chose to impose limitation after limitation upon the Legislature so that it was a very weak body. They quite properly maintained a balance of power by also creating a weak executive, without the necessary powers for effective leadership. They put checks and balances on the Executive within his own branch of government so that he couldn't take effective action to meet the peoples' demands from their government without the approval of other elected officials. These areas certainly explain the existing defects of substance. They do not explain the omission from the docu-

ment of flexible provisions that would render it a more effective instrument for meeting our ever increasing public needs.

As you study the existing Constitution and our proposal, those defects will become obvious to you. It is interesting that the present Florida Constitution has more than 50,000 words in it. Compare it with the Federal Constitution which has slightly in excess of 6,000 words. The model state constitution prepared by the Council of State Governments has approximately 12,000 words. Our proposed new constitution has somewhere between 15,000 and 16,000 words. These extra words in our existing Constitution don't do anything for our people, and they make the problem of a citizen who intelligently wants to understand it, at best, exceedingly difficult.

Because I have from time to time heard members of the Florida Legislature ask just what is wrong with the present Florida Constitution, I request that I be permitted to give some examples of the literary "garbage" now found in that venerable document.

The present Florida Constitution provides that the State Legislature shall elect our United States Senators. Of course, they are now elected by popular vote, as directed by the XVII amendment to the Federal Constitution.

Our Constitution provides that the salary of the governor shall be $3,500.00 a year; the salary of the Comptroller and State Treasurer, $2,000.00 a year; the salary of the Secretary of State, the Attorney General, the Commissioner of Agriculture, and the Superintendent of Public Instruction shall be $1,-500.00 per year, with the proviso that the State Legislature after 1895 can increase or decrease such salaries. There is of course no reason why salaries should even be mentioned in a Constitution.

There are specific provisions in our Constitution permitting an additional judge for the Duval County Criminal Court of Record, but no mention is made of other counties which have or may not have a similar court. Provisions permitting the State Attorney of both Dade and Hillsborough Counties to act also as prosecuting attorney for the Criminal Court of Record, even though the voters in Hillsborough County disapproved, and a provision establishing a Court of Record of Escambia County, although no other county has authorization for such a court.

There is a provision giving the Legislature the power of levying poll taxes as a prerequisite to voting. There is also one section in the present Constitution which provides that the Legislature shall consist of no more than 32 members of the Senate and no more than 68 members of the House of Representatives. In a later but inconsistent provision, it is provided that there shall be 38 Senators and a House of Representatives in which the five most populous counties shall have three members each, the eighteen next most populous counties shall have two members each, and all other counties shall have one representative. Of course, the Federal courts have long ago knocked out both provisions.

There is a specific provision in the present Constitution which gives the Legislature the specific power of extending the City of Jacksonville to cover all of the territory now in Duval County. There is a similar provision relating to Key West and Monroe County. There is, of course, the well known provision granting metropolitan government to Dade County. There are likewise separate and distinct sections of our Constitution permitting the County Tax Assessors of Monroe County, Hillsborough County, St. Lucie County, Volusia County, Broward County, and Pinellas County to assess municipal taxes in their counties. There are also separate and distinct sections which permit the Tax Collectors of Hillsborough County, of St. Lucie County, of Broward County, and of Pinellas County to collect municipal taxes in their counties. There is a specific provision taking all of Escambia's tax officers off of the fee system and placing them on a salary basis.

There is a provision that for a period of fifteen years from the beginning of its operation all industrial plants established in this state after July 1, 1929 engaged primarily in the manufacture of steel vessels, automobile tires, fabrics and textiles, wood pulp, paper, paper bags, fiber board, automobiles, automobile parts, aircrafts, aircraft parts, glass and crockery manufacturers and the refining of sugar and oils shall be exempt from all taxation, except that such exemption shall not extend beyond the year 1948.

Likewise, there is a similar provision that for a period of fifteen years from the beginning of operation motion picture studios established in this state on or after July 1, 1933 shall be exempt from all ad valorem taxation, except that such exemption shall not extend beyond the year 1943.

While there is a general provision providing for the election of the County Superintendent of Public Instruction in each county, there is, however, a specific provision contained in the Constitution which permits the County Superintendents of Public Instruction to be appointed by the School Board in Duval, Sarasota, Dade and Pinellas Counties. There is another provision which likewise permits the School Superintendents to be appointed in the Counties of Alachua, Charlotte, Collier, Manatee, Orange, Lee, Monroe, Leon, Indian River, St. Lucie, Broward, Baker, Brevard, Hendry and Hillsborough. There is an additional provision which permits the County School Superintendents to be appointed in the Counties of Escambia, Lake, Martin, Okeechobee, Palm Beach, Putnam and Seminole. Finally, there is an additional provision which permits the appointment of County Superintendent of Schools in Taylor County. The reason for the multiple provisions relating to the same subject matter is that they were adopted as applicable to different counties at different times. Altogether such amendments cover 27 counties having about 80% of the state's population.

There is a provision providing that white and colored students shall not be taught in the same school, even though such is contrary to the Federal Constitution; there is likewise a provision prohibiting the intermarriage of white persons and Negroes.

There are specific provisions in the Constitution, all separate sections, which permit civil jury trials in Pinellas County to be held in St. Petersburg as well as in the county seat of Clearwater; in Volusia County in Daytona Beach as well as the county seat of DeLand; in any municipality in Highlands County, rather than solely at the county seat of Sebring; in any branch court house in Brevard County; in any branch court house in Pasco County; and in any branch county court house in Dade County.

There is a provision requiring that the Legislature appropriate at least $500.00 each year for the purchase of books for the Supreme Court library; and there is a provision prohibiting the railroad from granting a free pass to any member of the Legislature or any other state official.

It may interest you to know that the entire last article in our present Constitution, Article XX, permits Orange County by law subject to ratification in a local referendum to consolidate, abolish, or create any of its county officers, and to provide for the assessment and collection of municipal taxes by the Orange County officials.

While these and similar constitutional provisions may have substantial merit, it is obvious that they are either obsolete, redundant or could be accomplished by a general provision granting home rule power to all counties and municipalities.

You also should know that there has never been a regular session of the Legislature since 1887 which did not propose to the people amendments to the present Constitution. During its 81 years of existence, a total of 212 proposed constitutional amendments have been submitted to the electorate; of those, 149 have been adopted. It is not surprising that our much amended constitution does not now meet the needs of our urban society. Almost fifty percent of the proposals to amend our constitution have originated in the Legislature in the 20 years since the end of World War II. Approximately twenty-five percent of those proposals originated in the 1961, 1963, and 1965 legislative sessions. To demonstrate the ever increasing trend of amendments, the individual members of the 1965 Legislature introduced a total of 111 Joint Resolutions representing 83 separate proposals. Of those proposals, 18 were approved —five by emergency action for submission to the people in November of 1965 and the remaining 13 for submission in November of 1966.

I submit, Mr. President and Mr. Speaker, that this ever increasing number of changes in the document necessarily reflects its growing inadequacy. The proliferation of amendments can only produce a confusing and sometimes conflicting conglomeration of provisions, rather than the viable basic instrument of government to which the most rapidly growing State in the nation is now entitled.

Our study as your technicians on constitutional revision has indicated that a good constitution always includes many basic matters, but first and foremost, we have come to believe that a good state constitution should be consistent with the Constitution of the United States, which contains limitations on both state and national power. Our commission in drafting our recommendations has attempted to be loyal Floridians, but to be loyal Americans first. Our proposal is properly consistent with our Federal Constitution.

As you face this historic task of drafting a new constitution, I suggest that the most difficult thing that you will have to do is to face up to the reality that someone else besides you has intelligence. Legislators of twenty and thirty years from now must be granted the flexibility to meet problems as they then exist without a present restriction imposed by you. If you determine something is needed now, it is not necessary that you also determine that it will be needed forevermore.

You should be very careful about what is put into our modern constitution. It should be drafted in short, clear words of broad authority and grants of power. You should give future Legislators the flexibility to meet the needs of government under the then existing conditions. The Constitution you are drafting should last for 100 years, not just for this year. You must not restrict those who will face different problems in the future. When you wrestle with the vexing question of home rule, you will have to waive what you think is presently best for each locality against the over-riding principle that people in that locality should be entitled by their vote to decide what form of government they want at any time in the future. The form of county government needed for Hillsborough County may not be needed for Liberty County, nor DeSoto County, nor Polk County. I submit that the people of those areas should have the flexibility to decide by their votes what kind of local government they want. Our Commission found that each member of our commission had a tendency to add and add more provisions in any subject matter in which he had a special interest; and we tended to decide that we know now what was right and that it should be so drafted as to be permanent when of course such procedure just is not the proper way to draft an ideal new constitution.

As my major personal recommendation to you, I urge that above all matters, proper provision must be made in our modern Constitution for further changes when conditions make changes desired. As an individual, as your agent, who was directed by you to make this study, I have concluded that the single most important thing that this historic Legislature can do—is to give to the people forevermore the power to amend and revise their constitution in the future without the interference of the Legislature, or without the interference or the veto of the Chief Executive. The people themselves, should have the right to initiate changes in their constitution in the future if they want to do so. If no other thing is achieved here, that in and of itself justifies a complete constitutional revision. Never again can this great state afford the luxury of undergoing minority control. The people's will as expressed by the majority must always prevail, and the right to amend our constitution must rest primarily in the people as the ultimate repository of constitutional power.

You will find in your deliberations that it will be impossible to draft a constitution with which all members agree. The recommendation of our Commission was not endorsed in each particular matter by all of our members. There are provisions therein with which each of us disagreed. You will do the same in your product. A complete constitution is so complex that it necessarily touches every facet of the governmental, social and economic life or our state. You will have to weigh the evidence and see whether the preponderance is with the modern constitution, or with the antiquated constitution. You will never draft a proposal that will satisfy each of you in all respects.

I reiterate then that the most important thing in this modern constitution is to recognize that conditions will change and that the peoples' demands for government will change. Neither the Legislature nor the Executive should be allowed in the future to block constitutional amendment or constitutional revision. The people must be the great repository of power to change the constitution. If this is achieved in this historic session, it will have served a monumental purpose.

Mr. President and Mr. Speaker, the Legislature assigned to us the task of making recommendations for a new constitution. We have done so.

We recognize that our proposal is not an infallible document. We did work hard and we are proud of the result. We do believe that you can and will make improvements in it. All of our materials are available to you. As individuals, we are willing to appear before your committees and give you the benefit of arguments pro and con on each issue.

The final solutions of what should be included in the modern constitution for Florida are up to you. That was never our task nor was it our assignment. Our task was to make recommendations, as the historic function of submitting it to the people was properly reserved to the Legislature. As your servants, we are proud of the way we have discharged the responsibility entrusted to us. The final outcome is now up to you. If we can assist you further, we will be happy to do so.

On behalf of the Florida Constitution Revision Commission and each individual member thereof, I thank you for the opportunity you have given to us to contribute to meeting the most pressing governmental need of modern Florida.

Remarks by Mr. William C. Baggs, member of the Constitution Revision Commission and editor of the Miami Daily News:

Mr. Speaker, Mr. President, members of the Legislature, ladies and gentlemen:

You have just been introduced to the bold, if not brutal, Chesterfield Smith and you should now realize why the Constitution Revision Commission completed its draft of the proposed revised constitution and submitted it to you—we were afraid not to. I suppose when you talk of the constitution, you talk of durability and I am reminded of my favorite story of the late President Kennedy about durability. There was a baby born on the city block and Willie, the oldest brother, about six years old, went running around the neighborhood bragging that a new baby had been born. He had a little baby brother. He was talking to Fred and he said, "Fred, my little baby brother cost $100." and Fred said, "Gee that's a lot of money for a baby." He said, "Yeah, but think how long they last." This is what you're about. One hundred seventy nine years ago, Alexander Hamilton, speaking from the Federal Senate, commented on the merits of the lean and uncluttered constitution. He said constitutions should consist only of general provisions. The reason is that it must be necessarily permanent and they cannot calculate for the possible change of things. I would plead with you, ladies and gentlemen of the legislature, that you leave nothing in the constitution which is not necessary. Times, indeed, will change and needs will change and we should not unnecessarily bind future generations and people's lives by the change of the constitution. The legislature of the future can better respond to change of times and change of needs. I believe we must be almost impolitely candid in discussing the business of rewriting the constitution. As we all know, this is really the first urban legislature in the history of our state. The rural neighborhoods of Florida, until recently, established the majority vote of the legislature. There were those of us who lived in the cities of Florida who believed that the rural majority was not exactly benevolent to us in the cities but now with urban control, and that is really what we are talking about, a new responsibility is inherited by you gentlemen from the city, and ladies, and that responsibility is to recognize the needs of rural Florida and to be fair to rural Florida. Many considerations and controversies await you, as you well know, as you begin your discussions. There are some non-controversial matters such as Chesterfield Smith's pet idea that we should appoint the Cabinet. I am sure you will have a similar experience as the one the Commission had when we discussed appointing the Cabinet, we found members of the Cabinet most sympathetic and helpful. I would like to plead for consideration on the specific proposal because I think it is important to the vitality of the young and growing cities. The Commission has proposed to you that the voting age in Florida be lowered to 18. Now the argument for this is far more than the common argument—that if you trust a young man of 18 to carry a rifle in the dark and sunless jungles of Vietnam then you should trust him with a ballot. One can see the simple but fair equation point. The age of 21 is arbitrary. It was born into decision in the 18th century. And certainly I think you can argue in the suburbs of reason that the 18 year old man of 1967 is as informed, is as involved, is as knowing as was the 21 year old man in 1885, when the Florida constitution was written. It is tragic to me that Florida has hundreds of thousands of bright young men and women, 18 to 21, in colleges, universities and jobs and they are not permitted this great resource to contribute to governing themselves. Finally, I would say to you, ladies and

gentlemen, to avoid the ordinary and necessary politics which accompanies the writing of statutes; a different attitude is necessary, I believe, when you are writing a constitution which is a document which is known to establish rules by which we govern ourselves while we go down the road. I believe you must feel the attitude when you start your discussion this week that you are writing a constitution—a document which is going to affect not only your children but quite likely the grandchildren of your children. The writing of the constitution perhaps is inevitable. It is influenced by the compromises of politics but I would hope, and I think I speak for the Commission, that you ladies and gentlemen be lesser Republicans and lesser Democrats as you author a document which determines how we govern ourselves for the rest of this century and perhaps beyond. It is simply impossible to author a good and modern constitution if partisan politics writes the articles and paragraphs. I have heard from various regions in Florida, conversations that the mood of the legislature simply cannot write or agree on a constitution—that you are shellshocked from this long sojourn here in this august city of Tallahassee, but the point I think I should make is that the three of us—the four of us—on the Commission have come here today convinced that you can write a constitution. If you can take the draft we gave you and if you can improve it, if you can deliberate with a sense of history, then the thing you can submit to the people of Florida is a new and modern document. Thank you.

Remarks by Honorable Richard T. Earle, Jr., member of the Constitution Revision Commission:

Mr. President, Mr. Speaker, Justice Caldwell, members of the Legislature: I want to discuss with you today what I believe will be the greatest problem that will confront you in attempting to draft a constitution. Constitution revision is somewhat different from all other legislation. First, one does not become experienced at it—it is a once in a lifetime experience if you do a good job. There are among you many experienced legislators. I doubt that there are any experienced constitution revisionists and if you do the job expected of you by the people of Florida, this will be your sole experience in this field.

Drafting a constitution is a real challenge. You are going to attempt, and I believe succeed, in drafting a form of government that will be the foundation of a great state and a source of pride to yourselves and the people of Florida. In this endeavor there are, and there should be, no limitations whatsoever—you are completely unshackled. You can provide for a unicameral, a bicameral and would you believe a tricameral legislature. You can provide for one Governor if you want, seven Governors if you want or, for that matter, no Governor at all, but instead a State Manager, similar to a city manager. The only limitations on your actions are contained in the United States Constitution. I repeat, this is a real challenge.

I am not one of those able to predict the reaction of the electorate and I am sure that the majority of you have, on occasion, made mistakes in such predictions. However, I believe that the electorate is well capable of voting intelligently and that the voters do have confidence in their government. If you come up with a constitution that is essentially sound, I believe the voters will accept it. I have not adopted the view that small groups deprived of existing privileges can defeat a proposed constitution if it is sound. I am convinced that it is impossible to draft a constitution that is sound and at the same time preserve the status of all persons who now enjoy constitutional privileges and immunities.

The great problem in drafting a constitution is that the entire area of government is encompassed in a single bill which must be approved by 3/5ths of you. It is not a single bill covering a single subject but in effect is a multitude of bills covering a multitude of subjects. It is obviously impossible for each of you to be in complete accord with every provision of your work product. As a matter of fact it is probably impossible for 3/5ths of you to be in complete accord on every provision. This is not unique. I doubt that any single member of the Revisionist Commission was in accord with every provision of that Commission's draft. On the other hand, the draft was approved with a single dissenting vote. This was accomplished through compromise.

You are in exactly the same position as the Commission was when it began its work. The members of the Commission were just as dedicated as you are and they certainly were no less self-opinionated. Most of them had their own ideas as to particular provisions that should be included in the document and particular provisions that should be excluded. I am sure that none of them succeeded in including or excluding all they desired and none of you will succeed in this endeavor.

How were these compromises accomplished? We considered the constitution article by article and section by section. Most of us had our own basic philosophies as to each article and our own ideas as how to put our philosophies into effect. We battled for both the result we desired and the means of accomplishing it. At this stage there was little or no compromise on basic philosophy. On the other hand, each realized that there was more than one road to the same destination and there were innumerable compromises as to the method of effectuating the desired result. As a result of debating these compromises we reached a consensus on each article. The basic philosophy of government expressed in each article did not meet with the approval of all, but it met with the approval of a majority.

When we concluded drafting the entire document, we were then confronted with the real problem—the real compromise—the problem and compromise with which you will ultimately be confronted. I doubt that a majority of the Commission was in favor of every article as drafted. However we considered the matter with two questions in mind—was it the best work product that we, the 37 men on the Commission, could agree upon and would it improve government in the State of Florida?

We knew that the document was imperfect but at the same time we recognized that it was, as a whole, the best that we could accomplish and we believed that it would effect great beneficial changes in our government. Believing this, the draft was overwhelmingly adopted.

I suggest to you that you, a different group, can undoubtedly improve on the constitutional draft. You can come up with an improved document, but if you are to do so, you must approach the problem in the same spirit as did the Revision Commission. Initially there should be hard, honest debate on both philosophy and means of achievment. Then there should be compromise as to the means and at the end, confronted with the entire document, you must weigh it using the same criteria as was used by the Commission—is it the best you can do and does it effect improvements in government. If the answer to both of these questions is yes, you should adopt your work product.

Compromising such as this may, at this time, present some difficulty to you. I suggest that as you proceed, each of you, like each member of the Commission, will become imbued with the importance and the challenge of your work and with a sense or feeling of history. You will consider the document as a whole and its effect on the people of Florida. When this happens, the compromise will be there.

Remarks by the Honorable H. L. Sebring, member of the Constitution Revision Commission, Dean of Stetson College of Law and former Supreme Court Justice:

Mr. President, Mr. Speaker, Justice Caldwell, Chairman Smith and honorable members of this legislative body:

I am not at all sure why I am here because when I reported for duty this morning the Chairman said he has listed four speakers ahead of me and that I was to be the clean-up man—if there was anything that they had missed. I cannot think of anything that has been missed in the presentation, but I am not going to be cut off like that. I am going to speak, nevertheless. I have a statement that will take about ten or twelve minutes as far as I can anticipate. If any of you contenders of this honorable body has finished listening before I finish speaking, if you will please let me know I shall be glad to try to terminate my remarks.

I want to preface what I have to say by a declaration taken out of the Declaration of Rights of the Constitution of 1838, Section 26, which declared that the frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty. It is upon that theme that I want to address my few remarks. The first fundamental principle to which I should like to advert is one that is old stuff to all of you lawyers, I am sure, and perhaps to ever member of this body, and that is this: that our federal constitution is a grant of power from the people to the federal government. Unless the grant can be found within the four corners of the federal constitution, no authority can exist for congressional action. On the other hand, a state constitution is a limitation of powers by which is meant that except for the constitutional restraints imposed by the federal constitution, state legislative power is

supreme except as limited or prohibited by the terms of the state constitution. It is because of this fundamental principle, ladies and gentlemen, that framers of the state constitution will do well to make the document as brief as possible—leaving to the legislative part the power to implement constitutional provisions by statutes that are designed to meet the contemporary problems of today. Every superfluous word written into a constitution, the state constitution, is to that extent a limitation upon the right of state legislative acts.

The second constitutional principle to which I will refer is that in framing a state constitution, the drafters should be constantly aware of the constitutional history of this state and of the social, political and economic conditions that produce such history. With this in mind, let us glance for a few moments at our own constitutional history.

It is sometimes loosely asserted that since its admission into the Union in 1845, Florida has operated within the Union under five constitutions. I submit that this is not quite the correct statement. There has been the constitution of 1838, under which Florida operated as it came within the Union for 16 years. Then there was the constitution of 1861, by the terms of which Florida attempted to secede from the Union and become a state of the Confederate States of America. There was the constitution of 1865, under which the people of Florida attempted to frame a government after the war between the states—which was rejected by the Federal Congress because it did not provide for "a republican form of government." Then there was the constitution of 1868, which was drafted by a convention summoned by a federal military governor while Florida was under federal military rule and which was submitted to the people and adopted by a vote of 14,524 to 9,491 against, in an election held under the shadow of federal guns and bayonets. And then, finally there is the constitution of 1885, which was framed by the constitutional convention on August 3, 1885, seventeen years after the constitution of 1868 was adopted. This is the constitution under which, with some 149 amendments, the government of Florida has been attempting to operate since 1887, a period of 80 years.

When referring, therefore, to constitutional history, it will be seen that we are really talking about three constitutions—not five. When we talk about the past history of the state, and it is indeed that, I should guess, to which the honorable body must refer when looking for the history of precedents—when this is done, it will be found that there is very little in the document, proposed by the Constitutional Revision Commission today that is absolutely new. Many of the matters contained therein have been tried before and then rejected or have been rejected and then readopted at a later date during our past history.

Let me say a word or two on these two constitutions—the constitution of 1838 and the constitution of 1868. The constitution of 1838 gave almost complete dominance to the legislative branch of the government. The people of the state elected the governor who could not succeed himself, the members of the general assembly and the clerks of the circuit court. The governor was given the power to appoint officers of the state militia and that was all so far as officers named or recognized in the state constitution of 1838 were concerned. Reposed in the general assembly—the legislature, then called the general assembly, was the power to appoint or elect, by joint House and Senate assembly action, the Secretary of State, the State Treasurer, Comptroller and Attorney General, Justices of the Supreme Court, Court Chaplains, Judges of Circuit Court, Clerk of the Supreme Court, and Clerks of Courts of Chancery, Solicitors for each county and boards of county commissioners for each county. The reason why this large margin of power, almost complete power, was lodged in the legislative branch was completely understandable when viewed against the background of conditions as they existed at that time. There were no governmental problems of any statewide importance—all were concerned for the most part with local events occurring back in the towns.

The constitution of 1868 was drafted in a quite different sense. As one of the states of the Confederate States of America, Florida had lost the war and strong federal influences dominated the scene. The convention to draft the 1868 constitution was called by the federal military government and as I said the election for ratification was held with federal soldiers in charge. It was understandable that under these circumstances the proposed draft would reflect great federal influences with the chief executive of the state becoming the dominant figure. Under the draft, which was finally adopted and ratified, the governor was given a four-year term with no limitation on the right to succeed himself and with a lieutenant governor elected by the people for a four-year term to assist him. The governor was given the power without let or hindrance to appoint county treasurers, county surveyors, superintendents of formal schools, county commissioners and justices of the peace. He was given the power, with confirmation by the Senate, to appoint the secretary of state, the attorney general, comptroller, treasurer, surveyor general, adjutant general, commissioner of immigration, state superintendent of public instruction, supreme court judges, circuit judges and county judges. The first of the group have come to be what we recognize today as the Cabinet. With the advice and consent of the Senate, he was given the power to appoint all commissioned officers of the state militia, County Assessors of Taxes, County Collectors of Revenue, State Attorneys, County Sheriffs, Clerks of Circuit Courts and all new offices created pursuant to the constitution in which provisions were not made by the legislature for election by the people.

So, in my opinion, there you have, within a short period of 30 years—from the constitution of 1838, which became effective in 1845, to the constitution of 1868, which became effective a year later—a complete change in approach to the processes of government in a floundering attempt by the people to arrive at a satisfactory statement of polity by which they would agree to govern. The constitution of 1885 was a protest by the people of a lodgment of too much power in the governor under the constitution of 1868.

Now, ladies and gentlemen, except for a wholesale house cleaning to get rid of some of the things Chairman Chesterfield Smith has talked about, there are only six or seven provisions in the proposed constitution that are wholly new. Here they are: certainly the provision—the long needed provision—in my opinion, for the initiation of constitutional amendments by the people is a new matter in our constitutional history; the lowering of voting ages to 18; the elimination of the defense of governmental immunities in tort and contract, and the selection of judges on a non-partisan basis. Note that under past constitutions they have been appointed on one hand and they have been elected on the other, but they have never been elected on a non-partisan basis. Another one, the authority to apply different rates of taxation of property on the basis of character and use. We have had some little experience with a similar provision. Twenty-five years ago the people of this state said that in respect to intangibles, the legislature of Florida should have the power to assess them at different rate or rates. Less than a year ago the people of the state said that in respect to imports and merchandise, the legislature ought to have the authority in that respect to depart from the basic constitutional requirements—that all taxable property be at the same rate. The fifth is apportionment by the Supreme Court of Florida if legislative apportionment fails. Finally, a slight change in regard to the disposition of homestead property where no widow or minor child survives.

So I repeat, that in one form or the other all other features of the proposed constitution that are said be controversial have been either authorized or tried in one way or the other. The right of gubernatorial succession, the right of annual sessions, the incurring of debt and the issuance of bonds by the state, and all the other matters that are said to be in controversy are matters that have been authorized under previous constitutions. So I say that when you get to the important task of framing this constitution you need not go elsewhere for constitutional precedents or constitutional history. Any constitutional scholar worthy of his salt can direct you to the provisions and to the history of the time. This is your task—the attempt to frame a new constitution for history. It is not an easy one but it is not a privilege that is granted to everyone. It could well be that the most important task that has ever been laid before you either in or out of government—is the task you face in this matter of revision and I wish you every success and God's blessings in your important endeavor.

On motion by Senator Mathews, it was agreed by two-thirds vote that when the Senate adjourns it adjourn to reconvene at 9:00 a. m., August 9, 1967.

The hour of adjournment having arrived, a point of order was called and the Senate adjourned at 4:06 p. m. to reconvene at 9:00 a. m., August 9, 1967.